Undoing the Neoliberal Higher Education System? Student Protests and the Bachelet Reforms in Chile

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Abstract
This article focuses on the education reforms of the current government of Michelle Bachelet (Chile, 2014-2018) triggered by the large student protests of 2011 – the “Chilean winter” – and the overwhelming support of the public for the movement’s demands. The students’ main demands included free education and a greater involvement of the state in education. The parties of the centre-left alliance, then the opposition, embraced these demands and promised broad educational reforms including free post-secondary education. After the center-left coalition (Nueva Mayoría, New Majority) won the presidential election it introduced three major education bills: the “short law” of free education, the creation of two new public universities and fifteen Centers of Technical Formation, and the reform of higher education’s regulatory framework (still under discussion in parliament). While these bills are aimed at increasing the state’s role in higher education, they fall far short of the students’ aspirations. In fact, as implemented the bill have consolidated a mixed public-private higher education model resting on a vision of post-secondary education as a marketplace in which institutions compete for students, subsidies and funding. The conclusion discusses the inherent limitations of these reforms, especially how the weakness of the welfare coalition made it impossible to transform the students’ demands into sustainable higher education policy.

Introduction
President Michelle Bachelet (2014-2018) announced ambitious educational reforms, modifying the principles and functioning of the system at all levels (pre-primary, primary, secondary and higher education). During the 2013 presidential campaign of 2013, left and right candidates promised substantial education reforms. Evelyn Matthei led the right-wing ruling coalition that favoured eliminating co-payments in schools, but opposed extending free education to higher education and especially not to students from high income households. Michelle Bachelet, in contrast, adopted a social-democratic stance. In her acceptance speech candidate (Bachelet, May 2013) she asserted Chile’s main social problem was inequality in its various expressions: income, wealth, access to educational services, healthcare, pensions and in the opportunity to enjoy cultural goods and services. She proposed putting the education, tax and constitutional reforms at the forefront of her administration’s actions. M. Bachelet’s campaign created expectations that her administration would undo the neoliberal bases of the university system, becoming the most reformist government in Chile since the restoration of democracy (1990). This expectation was grounded in the presidential programme, which included a tough criticism of previous...
administrations, and the broadening of the left coalition to include the Communist Party as well as smaller left parities into the New Majority (Nueva Mayoría, NM).

Bachelet was elected with a significant plurality with respect to Ms. Matthei and the NM received the largest parliamentary majority for the centre-left since 1990. These electoral victories seemed to assure smooth sailing for her policy proposals.

The centrality of education during the 2013 election reflects the importance the public attaches to educational reform. This, we believe, is a consequence of continuous protests by secondary and university students. Student unions had been significant actors in Chilean society at many points in the twentieth century. Important political leaders from the left and the right started their careers as student organizers. Since the large student protests of 2006 (Donoso 2013 calls this the “Penguins’ revolution”) citizens have become even more concerned about Chile’s educational problems. Survey data confirms the growing relevance of education in public opinion (Centro de Estudios Públicos 2016).

Students questioned the principles that had governed the education system since the dictatorship (subsidiarity, privatization, decentralization) and demanded comprehensive reforms including free university education (Fleet and Guzman-Concha, 206) and the abolition of co-payment and tuition fees became one of the main demands of the student movement. Bachelet’s first administration (2006-2010) responded to the “Penguins’ revolution” by enacting a new constitutional law of education (Ley General de Educación, LGE) to replace a Pinochet era rule. Students were far from satisfied.

In 2011 they took to the streets and mobilized under the motto “for public, quality and free education for all”. This turned the largest and most significant episode of social unrest in nearly three decades. Student unions mobilized to denounce problems of indebtedness, access to and quality of tertiary education, in a country with one of the highest tuition fees levels worldwide (OECD, 2014, p. 263). In sum, the protest cycle between the “Penguins’ revolution” (2006) and the “Chilean winter” (2011) galvanized public opinion to insist on profound education. This triggered series of political reactions. The centre-left opposition saw the 2013 elections as an opportunity to return to power.

M. Bachelet’s government introduced three major education policies: the “short law” of free education, the creation of two new public universities and 15 Centres of Technical Formation, and the reform of the regulatory framework of higher education (still under discussion in 2017). While some of these changes aim to increase state responsibility for higher education, they are a far cry from the demands of the students. The so-called “short

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1 The policy proposals for primary and secondary education fall outside the scope of this piece.
law” makes education free for students from the five poorest income deciles. This change removes an historically pervasive barrier of access to university, and prevents heavy students’ indebtedness. However, this benefit is means-tested (not universal), and its delivery mechanism supports the private sector. Moreover, it’s uncertain whether and when this subsidy will reach more beneficiaries. The recent creation of two state-owned universities (plus 15 Centres of Technical Formation, which provides vocational training) represents the first expansion of the public sector in higher education in three decades. Finally, the proposed changes to the university regulatory framework would create a network of public universities to foster collaboration and strengthen the sub-sector, while limiting indirect profit-extraction. Vice-chancellors and student unions have strongly criticized the draft as it doesn’t modify the distribution of roles within the system and doesn’t substantively expand the public sector. Additionally, the Bachelet reforms haven’t considered closing or replacing the State-Guaranteed Student Loan (CAE), which benefits private universities by supporting a higher education market competition. Increases in state-owned university budgets dampens the worst effects of severe and historic underfunding, but doesn’t challenge the principle of financing students and not institutions – the principle instituted in the 1980s that is now entrenched in Chilean higher education. Bachelet’s education reforms were limited can by her government’s inability to establish a muscular welfare coalition. Indeed, Bachelet’s center-left alliance missed the opportunity to align the interests of student unions and the middle and lower-middle classes (free education has a direct impact in the disposable income of these families, and prevents heavy indebtedness of the young), with the goals of the government. This failure compromised the future of further reforms.

The Chilean Higher Education System

The higher education system in Chile can be characterised as a market-driven, mixed system, in which the role of state-owned universities has declined over the last three decades. There are three types of institutions. First are the state-owned, public universities. Next there are private universities created by the law before 1981. And third there are private universities created after 1981. This landscape is the result of Pinochet era changes including the 1981 General Law of Universities and the 1989 Constitutional Law of Teaching (LOCE).

The General Law of Universities liberalised the higher education sector to allow private providers. At the same time, Pinochet abolished unconditional public funding for universities and replaced it with the principle of self-funding universities which necessitated the imposition of tuition and fees. The regional seats of the two state universities were transformed in 14 small independent universities to combat the strong politicization of
campuses and weaken the state universities. Each public university received a new charter which granted greater autonomy, even though governance remained highly hierarchized and concentrated in the hands of non-elected vice-chancellors and boards of directors. Of critical importance was stripping the civil service status from academic personnel and this gave universities leeway in establishing their own remuneration schemes. LOCE, in turn, established minimum standards for all education providers and appointed a special agency (Consejo Superior de Educación) for accreditation. LOCE insisted that all universities must be not-for-profit institutions, unlike other tertiary institutions (professional institutes, IPs, and centres of technical formation, CFTs), which were not subject to this rule.

These reforms amped up the pressure to create a marketplace of universities: state-owned universities competed for public funding just like the private ones, while the state (mainly) subsidized students but not institutions. It’s no surprise that the number of universities soared. Before 1981 there were eight universities (two state owned and six privates with access to public funding). In 1990 there were 40 private universities, and 22 of them received public funding (and a total number of 303 higher education institutions). In 1990 enrolment at public institutions had fallen to 29% of total tertiary enrolments and 50% of university enrolment.

With the restoration of democracy, new governments recognized the academic freedom and accepted the mixed shape of the system leaving its basic structure untouched, with self-financing, subsidiarity, and family’s expenditures as the main sources of income. The government reformed the loan system in 1994 creating the University Credit Solidarity Fund (Fondo Solidario de Crédito Universitario, FSCU), which was available only for students enrolled in universities of the first and second type described above (also called “traditional” universities, as opposed to those created after 1981, the private sector). The FSCU is a public loan that finances tuition with a 2% interest rate, repayments start two years after graduation, and payments limited to 5% of the total annual income. The traditional universities were granted new lines of revenue in the 1990s, and these were extended to the private sector in the 2000s. These new funds are received after competitive public tenders governed by a logic of performance-based budgeting. From 2010 to 2014 under President Pinera, the participation of private universities in these schemes grew significantly. For example, private universities received 50% of the Institutional Development Fund (Fondo de Desarrollo Institucional, FDI) (Contraloría, 2015, p. 58). The FDI has continued its rapid growth doubling from 2012-2017 (CENDA 2017).

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2 Professional Institutes (Institutos Profesionales, IPs) and Centres of Technical Formation (Centros de Formación Técnica, CFTs) provide vocational and technical training in education programmes that last one to three years, and have been traditionally considered components of the higher education system. Before 2013, all these institutions were private and were allowed by law to be for-profit companies.
Despite fostering a mixed public/private higher education system, the state has a policy of non-discrimination between institutions. Student aid schemes are the instrument used to achieve this goal. In the 1990s, under 20% of the higher education budget was open to any type of university, with 25% allocated to student aid (FSCU and other scholarships). These proportions started to change in the 2000s. The milestone in this process occurred in 2006 with the creation of the state-guaranteed loan (Crédito con Aval del Estado, CAE). Set up during M. Bachelet’s first term, CAE extended loans to students enrolled in private institutions. Policy-makers assumed the state wouldn’t finance these loans, so they convinced the banks to become lenders with the state as intermediary and guarantor. To dispel the risk of non-repayment and make the loans commercially viable, a double guarantor system with the state as final underwriter was instituted. The interest rate was set at an average 5.8% (lowered to 2% after the 2011 protests). CAE spread very rapidly, and by 2010 it was the largest student lender in the country (216,126 students) with the most public resources (55.4% of the total financial aid). By contrast, the FSCU (for students in ‘traditional’ universities) amounted to only 14.3% of total financial aid. Overall, between 1990 and 2010 student aid grew 18 times (Rodríguez, 2012).

According to its original design, CAE wouldn’t reduce funds flowing to public institutions. In practice however, it has transferred resources from the state to private universities and banks over the last decade. The mechanisms created to ensure that banks would participate in the scheme – repurchasing and imposing surcharges on loans – have redirected public resources to private uses. Between 2006 and 2015 the state has disbursed $2.01 billion in repurchase agreements and loan surcharges, which represents 51% of the total amount of CAE loans in the period (CENDA, 2016).

The scheme favoured many universities suspected of using illegal mechanisms to make profits (World Bank, 2011; Kremerman and Paez, 2016). Moreover, CAE’s expansion has further undermined public university enrolment. Between 2005 and 2015 enrolment in public universities fell from 26% to 15% of total enrolment, while private universities grew from 74% to 85% over the same period. CAE is the fastest growing aid program of the last years (CENDA, 2016).

Despite increasing public expenditure through student aid and other funds (e.g. FDI, MECESUP, others), a recent study that compared 50 advanced and emerging economies found that in Chile, families and students play an unusually strong role in higher education expenditure. Chile’s gross domestic expenditure in research and development is the lowest

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3 In 2000, 12% of the total budget was open to all institutions, and 25% was allocated to student aid. Ten years earlier, these proportions were very similar (18% and 25%, respectively)
in the OECD (0.39% of GDP in 2015), while expenditures for tertiary education (US$ 7,880 per student in 2013) remains one of the lowest of the group (OECD, 2014).

The growth of the system and an international consensus that Chile has a “market friendly” higher education sector has attracted foreign education firms like Laureate and Sek. Laureate, for example, owns three universities and two professional institutes, with a total enrolment of 172,000 students (more than 10% of enrolment in tertiary education in 2016). Laureate must comply with the Chilean law that forbids for-profit activities. Yet in 2015 the conglomerate reported US 536M in profit to the SEC (Laureate, 2015). Reports of the World Bank (2011) and Kremerman and Páez (2016) show that six groups of private institutions collect more than 60% of CAE subsidies: Santo Tomás University, IP and CFT; Laureate Group; DUOC IP (a subsidiary of the Catholic University of Santiago); Universidad Tecnológica INACAP, University San Sebastián and Universidad Autónoma de Chile.

The Bachelet’s Reforms

Since Ms Bachelet second term (March 2014) parliament’s passed three additional higher education proposals. First is the provisional administrator bill (2014). Next is the free education act (2015). And finally we have the creation of new universities and CFTs (2015). Additionally, in 2016, the government disclosed the content of its proposal for regulating the universities (it is expected that parliament should approve a definite law during 2017).

The free education act was approved in parliament in December 2015 after the Constitutional Court contested the first draft. The proposal consisted of three annotations to the 2016 Budget Act –which is why it was named “short law” of free education. The first annotation established free university education for students enrolled in public universities from the five poorest income deciles. Students enrolled in non-public universities that were accredited for at least 4 years and whose controllers are not-for-profit legal entities also enjoy free education. The second annotation establishes a fund of $ 5,000 million to help state universities improve quality and secure accreditation. The third annotation established increments in the New Millennium scholarship (from $500,000 to $750,000) for students from the five poorest income deciles enrolled in not-for-profit CFTs and IPs. The Budget Act of 2017 extends free education to students enrolled in accredited CFTs and IPs. In its first year (2016), nearly 130,000 students have enjoyed the short-law.

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4 The provisional administrator bill was a piece of legislation that allows the government to intervene universities in crisis or bankruptcy. Its need was apparent in 2012, when the Universidad del Mar faced a serious institutional and financial breakdown that led to its closure. Right after its approval, the government appointed a provisional administrator in the University ARCIS (private) in 2014.
The fact that the funds required to implement free higher education were tied to the Budget Act, rather than a stand-alone revenue stream, makes it vulnerable to change or outright rejection annually when parliament negotiates the budget. The “short law” reveals the government’s difficulties designing a comprehensive education funding proposal. The few annotations to the budget avoided the creation of a new regulatory framework which would have required politically charged negotiations within the governing coalition on a controversial issue.

Students criticized the free education bill because it allowed public money to flow to private universities. This provision that was introduced after 31 right-wing MPs initiated judicial action against the government’s proposal. The court accepted the MPs’ argument that excluding private institutions constituted discrimination against low income students who enrolled in them. Students also questioned the timing of the bill, arguing that a new regulatory framework needed to be in place before free education legislation could be produced. Students and political commentators agreed that the president herself sped up the process because she saw that passage of the short law version of the free education bill could reverse her historically low approval ratings.

The “short law” removes tackles two major shortcomings of the Chilean higher education system by lowering barriers to access to university, while preventing heavy student indebtedness. However, the means tested benefit works as a voucher as institutions receive public subsidies based on student enrolment preferences. With private sector higher education accounting for 85% of total enrolment this works to further legitimize the disproportionate size of the private sector. Moreover, it’s uncertain whether and when this subsidy will be extended to the totality of students.5

In August 2015, Bachelet signed the act creating two new regional public universities (Ley 20.842) in O’Higgins and Aysén, the only two regions that had not previously had a public university. In September that year, the President appointed their vice-chancellors, whose first tasks included developing strategic plans and opening the actual campuses. These universities are expected to receive their first students in 2017. Then in March 2016 15 Bachelet established 15 Centers of Technical Formation one for each region (Ley 20.910). The CFTs will work closely with the regional universities and to promote decentralization their main seats will be in the second largest regional city. The CFTs will not charge tuition and to ensure quality they will have to be accredited. The CFTs in the Maule and Araucanía regions

5 Additional problems of this bill include the fact that the subsidy lasts only for the official duration of study programs (while the actual duration is usually longer), plus the fact that the insufficient regulation of tuition fees levels might incentivize underfunded universities to increase tuition for those students not covered by the free education act.
will appoint principals in 2017 while all fifteen CFTs are expected to be fully operational by 2021.

This is the first expansion of public higher education in three decades and is the first time since 1947 that the state created new universities. However, absent complementary policies expanding already existing public universities, these new public institutions are not likely to stop the decline of enrolment in public institutions in the short to medium term.

In July 2016 the government issued preliminary legislation to regulate the university sector. The education commission of the lower chamber is still debating this as I write (Feb 2017). The draft proposes a System of Higher Education with the sub-secretary of higher education playing a leading role within the Ministry of Education. The Superintendent of Higher Education is charged with the mission of auditing and supervising the system while the Council for Quality will promote quality through accreditation processes. The draft proposes a National Council of Technical and Professional Education whose members will include employer associations, trade unions, CFTs and IPs and government representatives. Additionally, to foster collaboration and minimize competition, the draft creates a network of public universities all of which must be accredited. Should state institutions fail to achieve accreditation, the government will appoint provisional administrators. The proposed Unified Admission System differentiates between universities, CFTs and IPs, downplays the standardized (PSU) admission test while raising the importance of other variables (like students’ class rank). The draft proposes free education for students under tightly defined circumstances. Students receiving free tuition must meet the following criteria: their families must be in the bottom 60% of the income distribution, they must attend not for profit institutions with 4 years of accreditation, they must be fully enrolled, the university must participate in the Unified System of Admission, and at least 20% of the university’s enrolment must include students from the poorest 40% of households.

The proposal establishes minimum standards in enrolment diversity, expands the coverage of the current “short-law” of free education (to 2018), regulates tuition fees levels for institutions that join the Unified System of Admission and the state will establish tuition levels in consultation with a permanent commission of experts. Additionally, the proposal sets tougher standards to ensure that institutions comply with the prohibition on profit making. The draft also announces a state-led, national network of institutions of vocational training, working in close alignment with economic and regional needs. The incorporation of alternative mechanisms of admission (student ranking, special programmes) is supposed to contribute to the socioeconomic diversity of the student bodies. The draft also calls for university Senate comprised of both students and at least two thirds of academics.
Despite these regulations, the proposal reinforces both the size and status of the private sector by ensuring public funding for private institutions in exchange for their compliance with further regulations. Public institutions, in turn, must compete with the former for students and other subsidies. CAE is not abolished and noncompliant institutions can still enrol loan recipients. No special subsidies are set aside for the public state institutions. The draft proposes the gradual replacement of direct public subsidies for state universities with other subsidies for research and development which are open to all institutions that adhere to the gratuity standards. While greater control may ensure that the institutions are non-profit entities, the fact that profit making activity in the higher education sector is not defined as a crime shows continued tolerance for higher education profit making. The Council of State Universities (CUECH) also complain that there is no national plan for the development of state universities similar to the proposed national plans for the public CFTs and IPs. State universities also point to the low level of resources, sustainability, governance and legal flexibility of the announced network of state universities (CUECH, 2016). CUECH believes these reforms perpetuate the principle of financing students, rather than institutions. This is clearly a neoliberal principle as it holds students responsible for the cost of their education because the acquired university credentials increase their future incomes.

Probably one of the most debated issues of the proposal concerns the mechanisms to advance full gratuity. The website of the Ministry of Education states that the system will move towards “the coverage of all students according to the evolution of the economic conditions of the country, established as a percentage of fiscal incomes (structural incomes) in relation to the total production of the country (trend GDP)”. Considering this formula, it has been estimated that Chile could extend free education to all students in some 30 to 50 years. Today’s students unions are not happy with this.

Conclusions

After promising a departure from the marketplace model that has prevailed in Chile since the 1980s, the administration of Michelle Bachelet (2014-2018) initiated a series of changes in the Chilean higher education system. This sector has indeed experienced more legislative attention during this government than in it had at any since the military government. However, the approved reforms and the bills disclosed so far include shortcomings and omissions that cast doubts on Bachelet’s programme. Despite a significant majority in parliament for parties that allegedly supported a profound reform of the system, and a broad consensus around these ideas in public opinion, actual educational reforms don’t match either expectations or campaign promises. Why?
In his seminal work, Gosta Esping-Andersen (1990:1) explained that “the history of political class coalitions [is] the most decisive cause of welfare state variations”. The power resources theory explains the development of universalistic and de-commodified social rights as a function of the emergence and consolidation of welfare coalitions between class based labour unions and left-wing political parties. (Esping-Andersen 1990, Korpi and Palme 2003)

The lack of such coalitions—weak labour unions and/or feeble or divided left-wing parties—facilitates the development of more individualistic institutions that allow market relations to colonize wide social domains.

Clear political majorities and broad societal consensus are necessary components of welfare coalitions. But political majorities must sustain themselves over time, and social consensus should emerge to support organizations that defend and mobilize constituencies when their interests are under threat. Moreover, a longer term perspective is required to properly assess the extent and direction of change. In Chile, there is strong support for greater state involvement in education and the New Majority claimed its political platform could achieve their realization. In practice, however, the NM has exhibited lack of cohesion around goals and instruments.

On several occasions the Christian Democratic Party (one of the major partners in the alliance) has spoken against the government’s policy proposals. In 2014 for example, the CDP party leader declared that his party “was not in the picture of the Ministry of Education”. Influential MPs in the governing alliance often express opinions that are closer to those of the private lobbies than of the student unions or public-university leaders. Indeed, the president herself has been reluctant to exercise her prerogatives as head of government and leader of the New Majority. Scandals, political corruption and illegal campaign financing swirling around her inner circle have further undermined her leadership and popularity. Numerous surveys show that as the president’s popularity falls, so too does the popularity of the education reforms. Finally, the right-wing opposition has mobilized associations of private schools, parents and the media to defend the right of families to make economic contributions to semi-private schools while strongly opposing universal free public higher education, and – surprising – even some members of the governing alliance agree with that position. The higher education debacle can thus be laid at the feet of the governing coalition as it failed to cement parliamentary forces in favour of its own ideas, while the opposition has effectively neutralized aspects of the original policy platform. Other opponents of the Bachelet platform, e.g., the Catholic Church, the association of private universities, the Catholic University of Santiago, associations of parents and right-wing student unions and the media have mobilized all the means at their disposal, including the constitutional court.
The Constitutional Court ruled against the government’s Free Education Bill. In opposition to the original draft, the court forced the government in December 2015 to extend the benefit to students enrolled in private universities. The Constitutional Court aligned with the right-wing minority. This defeat confirmed the court’s preferences for private institutions and reaffirmed its counter-majoritarian nature.

From the outset student organizations have doubted both the intentions and capacity of the government to enact its programme. Although CONFECH and the major student federations haven’t taken to the streets in numbers similar to those of 2011 they remain influential in public debates. The media are especially attentive to their opinions. After a small group of former activists calling themselves Revolución Democrática announced that they would leave the government in 2016, the ties of the New Majority to the active forces of the student movement were reduced to the youth section of the Communist Party. This withdrawal was important for its symbolism: it showed the students’ disillusion with Bachelet’s second government which had been welcomed as such an opportunity. Similarly, chancellors of public universities, education experts, and intellectuals sympathetic to the government, have increasingly distanced themselves from its proposals. These developments left the government isolated, unable to rally support for its most important policy proposals.

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